



Standards and Constitutional Oversight Committee

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|---------------|--|
| Date: | Tuesday, 3 March 2015 |
| Time: | 6.00 pm |
| Venue: | Committee Room 1 - Wallasey Town Hall |

Contact Officer: Shirley Hudspeth
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AGENDA

1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Committee are asked to consider whether they have any disclosable pecuniary or non pecuniary interests in connection with any item(s) on this agenda and, if so, to declare them and state the nature of the interest.

2. MINUTES (Pages 1 - 6)

To confirm the Minutes of the meeting of the Standards and Constitutional Oversight Committee held on 3 July 2014 2014 as a correct record.

3. SUMMARY OF THE WORK AND PROPOSALS OF THE STANDARDS AND CONSTITUTIONAL OVERSIGHT WORKING GROUP (Pages 7 - 58)

A report by the Head of Legal and Member Services and Monitoring Officer is **attached**.

4. NOTICE OF MOTION - CONSULTATION THAT COUNTS (Pages 59 - 60)

The **attached** Notice of Motion was referred for consideration to the Committee by the Civic Mayor at the meeting of the Council, held on 15 December 2014.

To discuss.

5. URGENT BUSINESS APPROVED BY THE CHAIR

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

Thursday, 3 July 2014

Present: Councillor WJ Davies (Chair)
Councillors M McLaughlin L Rowlands
R Gregson P Williams
J Salter B Berry
C Jones

In attendance: B Cummings Independent Person
Prof RS Jones “ “

1 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors G Ellis, J Hale and D Roberts.

2 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors G Ellis, J Hale and D Roberts.

3 **MEMBER'S CODE OF CONDUCT - DECLARATIONS OF INTEREST**

No declarations of interest were received.

4 **MINUTES**

RESOLVED:

That the Minutes of the Special meeting of the Committee held on 28 April 2014 be confirmed as a correct record.

5 **SUMMARY OF COMPLAINTS MADE UNDER THE MEMBERS' CODE OF CONDUCT**

The Council was required to provide a summary of standards complaints made under its approved Ethical Framework. The Committee as part of its monitoring role considered the nature and handling of complaints received pursuant to the Members' Code of Conduct.

A report by Head of Legal and Member Services and Monitoring Officer summarised standards complaints made under the Members' Code of Conduct between 1 April 2013 and 25 June 2014. Appended to the report was a list detailing the dates on which complaints had been received, the nature of each one, their status and the next stage and anticipated date for conclusion where this was applicable.

The Committee noted that between 1 April 2013 and 31 March 2014 a total of six complaints had been made (two by other Members of the Council and four by members of the public). One had been referred for investigation but none had been upheld. From 1 April 2014 to 25 June 2014 it was noted that a further six complaints had been made (two by Members of the Council and four by members of the public).

Members asked a number of questions about the information which they had before them which were answered by the Head of Legal and Member Services as appropriate.

RESOLVED:

That the summary of standards complaints set out in the report and its appendix be noted.

6 WORK PROGRAMME 2014/15

A report by Head of Legal and Member Services and Monitoring Officer set out proposals for work to be carried out during the 2014/15 Municipal Year. They were based primarily on matters arising out of the work undertaken by the Standards Working Group in 2013/14 in respect of the Council's Ethical Framework relating to Members' conduct and consideration of the Member Survey on Perceptions and Experiences on the Council's Governance Arrangements.

The Committee was reminded that the Working Group had considered the following matters and made recommendations to the Committee at its meeting on 28 April 2014:

- Member Survey on Perceptions and Experiences on the Council's Governance Arrangements;
- Members' Code of Conduct;
- Protocol on Dealing with Complaints Against Members;
- Disclosure and Barring Service checks for Members; and

- Amendment to the Council's Constitution to give effect to The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014.

The Committee had recommended a revised Members' Code of Conduct and Protocol (effective from 1 August 2014, a revision to the Council's DBS Policy and further amendments to the Council's Constitution, all of which had been approved by the Council at its meeting on 9 June 2014.

The Working Group, however, had put forward further proposals which it had considered appropriate for consideration by the Committee when it developed its Work Programme for this Municipal Year as follows:

- (a) To establish a Protocol of Etiquette (primarily focused on conduct and behaviour expected at Council meetings) to be developed in conjunction with the Council's Occupational Development team/initiatives;
- (b) To review and revise the Members' ICT Policy;
- (c) To review and revise the information governance arrangements relating to Members in conjunction with the Council's Information Governance Board;
- (d) To consider how high standards of conduct can be further embedded; and
- (e) To monitor (and review) the Constitution to ensure any improvements/amendments required can be addressed promptly.

It was proposed that the Committee again established a Standards and Constitutional Oversight Working Group to progress the work outlined above. Its proposed terms of reference were set out in the appendix to the report. The Working Group would be a cross-party group that would make recommendations to the Committee for consideration and approval.

Members were aware that a lot less members of the public attended Council and Committee meetings now than in previous years and they considered that this could be because of the way Members now conducted themselves in meetings as in the past the level of etiquette had been considerably higher. Respect for the Mayor and themselves was an issue. They proposed that the Working Group embark on a project to promote Council and Committee meetings and encourage public engagement and participation at them. It was noted that Planning and Licensing meetings attracted people but apathy was a factor in respect of the others. Also, some people were not aware that the public could attend meetings.

Members also noted that previously if the public were aware that the Cabinet would be making a particular decision they would turn up and if they disagreed with that decision they would attend the Council meeting to register their disapproval. They were now beginning to see this as “a waste of time” as they were aware that once the Cabinet made a decision it was not changed.

Members further noted that it was difficult for the public to hear what was being said in the Council Chamber. They considered that they should treat each other with respect, speak clearly and allow others to listen to what was being said. It was important to welcome and positively encourage people to attend meetings.

RESOLVED: That

- (1) the Work Programme as set out from (a) to (e) above be agreed along with**
 - (f) To consider how the public can be engaged further with the Council’s democratic arrangements; and**
 - (g) To undertake further Members’ Survey(s) as appropriate to help improve the Ethical Framework and the Constitution, and support improvements in governance.**
- (2) the Standards and Constitutional Oversight Working Group be established in accordance with the Terms of Reference appended to the report and each Party Spokesperson be requested to confirm their the names of their Group Members to be appointed to the Working Group as soon as possible so that the first meeting can be arranged; and**
- (3) the Terms of Reference of the Working Group as set out in the appendix to the report be amended to include:**
 - (a) the ability for Members of the Working Group to also nominate Deputy Members of the Committee to attend the Working Group when they are unable to do so; and**
 - (b) all four Independent Persons be invited to attend the meetings of the Working Group and support/assist the Group in undertaking its programme of work.**

7 URGENT BUSINESS APPROVED BY THE CHAIR

The Chair informed that the Head of Legal and Member Services and Monitoring Officer would be providing training on the new Members’ Code of

Conduct and the Code of Corporate Governance on 21 July 2014. All Members were invited to attend as were the Independent Persons.

The Head of Legal and Member Services and Monitoring Officer informed that he was willing to attend Political Group meetings to provide an update on the Code of Conduct and the Protocol on dealing with Members' Complaints if Members were agreeable to this. They would both become operative on 1 August 2014.

A Member proposed that the Members' Training being arranged on the Selfserve System also include an element of training on the Code of Conduct and the Protocol on dealing with Members' Complaints.

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WIRRAL COUNCIL

STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE

3 MARCH 2015

| | |
|-----------------------|---|
| SUBJECT: | <i>SUMMARY OF THE WORK AND PROPOSALS OF THE STANDARDS AND CONSTITUTIONAL OVERSIGHT WORKING GROUP</i> |
| WARDS AFFECTED | <i>ALL</i> |
| REPORT OF: | <i>HEAD OF LEGAL AND MEMBER SERVICES AND MONITORING OFFICER</i> |

1.0 EXECUTIVE SUMMARY

1.1 This report provides details of the work undertaken by the Standards and Constitutional Oversight Working Group during the 2014/15 Municipal Year.

1.2 The Working Group has considered the following matters and/or made recommendations for consideration by the Committee:

- Development of Member Values and Behaviours;
- Review of the Council's Constitution;
- Policy on Reporting on Council Meetings; and
- Review of the Protocol on Member/Officer Relations

2.0 BACKGROUND AND KEY ISSUES

2.1 The Committee at its meeting on 3 July 2014 re-established its Standards and Constitutional Oversight Working Group.

2.2 The work of the Working Group during this Municipal year focused on specific areas – see paragraph 1.2 above.

2.3 The Working Group has now completed some of its work. However further work is still required in relation to the review of the Council's Constitution.

Development of Member Values and Behaviours

2.4 The Working Group was advised that there were plans to work with Members in relation to defining and agreeing a set of Member Values and Behaviours. A programme underpinning this work is still being developed and will be shared with the Working Group (and all Members) in due course.

- 2.5 The Working Group has not considered this matter in any detail and therefore no recommendation(s) are being proposed in respect of this matter.

Review of the Council's Constitution

- 2.6 The Working Group has commenced a review of the Council's Constitution. However this work is not yet complete.
- 2.7 The Working Group decided that it was not necessary to undertake a further Member Survey in relation to the Council's Constitution at this time.
- 2.8 The Working Group did however focus its attention specifically on the Council's Procedure Rules contained within the Constitution. A benchmarking exercise has been undertaken in which the Working Group was provided with Procedure Rules and Council Agendas of a number (16) of Councils. This helped the Working Group appraise the Council's current arrangements in greater detail and facilitate debate and discussion about how the Council's democratic and decision-making arrangements could be improved.
- 2.9 Given the nature and extent of the review being undertaken, the Working Group has not been able to complete its review of the Council's Constitution. The Working Group is proposing that it continues to meet so that it can complete its review and report progress/recommendations to the Committee in due course.

Policy on Reporting on Council Meetings

- 2.10 The Council's position with regards to reporting/filming at Council and committee meetings is in essence determined by The Openness of Local Government Bodies Regulations 2014 ("the Regulations") which came into force in August 2014. A copy is attached to this report.
- 2.11 The Working Group has reviewed the Council's current position with regards to the reporting (which includes filming, tweeting, blogging) of Council meetings and developed a "Policy on Reporting Council Meetings", which is set out at Appendix 1 to this report.
- 2.12 The Policy seeks to provide guidance to the public, Members, Officers and those with responsibility for chairing Council meetings and takes account of the The Openness of Local Government Bodies Regulations 2014 and the Department of Communities and Local Government ("DCLG") Guide (which forms part of the Appended Policy).
- 2.13 The Policy seeks to provide clarity/guidance with regards to the legal position of those entitled to report on Council meetings and balancing that right with the rights of those who must or may not want to be identified in film, photographs or other media/device (whether electronically or otherwise).
- 2.14 The Policy reinforces/reinstates the Council's commitment to open and transparent decision making; and sets out the remit and scope of the 2014 Regulations in relation to the meaning of "reporting". Importantly, the Policy sets out obligations upon those who wish to report on Council meetings. This is not only to ensure compliance with the

2014 Regulations, but also provide a basis to consistently manage and address any competing issues that may arise. The Chairperson of Council meetings has the discretion to determine any tension/dispute that may arise with regards to the application and interpretation of the 2014 Regulations, the DCLG Guide and the Policy.

- 2.15 The Committee is therefore requested to approve the proposed Policy on Reporting Council Meetings and recommend the same for approval to the Council. It is further recommended that the Council delegates authority to this Committee to review, amend and/or change the Policy.

Review of the Protocol on Member/Officer Relations

- 2.16 The Working Group as part of its consideration of the Council's Constitution reviewed the Protocol on Member/Officer Relations which had not been reviewed for a number of years.
- 2.17 The Protocol provides a framework and basis governing how Members and Officers are to work together. The Protocol is not intended to be a definitive list of behaviours and conduct but rather seeks to provide a framework and articulate the spirit in which Members and Officers should work.
- 2.18 The Protocol has not been changed significantly but instead updated and where necessary clarified.
- 2.19 The Committee is therefore asked to agree the revised Protocol at Appendix 2 to this report and recommend the same to Council for approval.

3.0 RELEVANT RISKS

- 3.1 The Council must ensure that the Constitution and other working arrangements/practices are effective and compliant with relevant legislation.
- 3.2 By undertaking a regular review of the Constitution and other key aspect of the Council's practices, the risks to the Council are mitigated.

4.0 OTHER OPTIONS CONSIDERED

- 4.1 The Working Group considered relevant information available and benchmarking information to help inform its decision making.

5.0 CONSULTATION

- 5.1 The Standards Working Group has a consultative role by virtue of its cross-party membership. No formal consultation is necessary in respect of the matter falling within this report.

6.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS

- 6.1 There are no such implications arising.

7.0 RESOURCE IMPLICATIONS: FINANCIAL; IT; STAFFING; AND ASSETS

7.1 There are no such implications arising.

8.0 LEGAL IMPLICATIONS

8.1 The legal implications have been set out in this report.

9.0 EQUALITIES IMPLICATIONS

9.1 Has the potential impact of your proposal(s) been reviewed with regard to equality?

(a) No EIA is required.

11.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS

11.1 There are no such implications arising.

12.0 RECOMMENDATION/S

12.1 That the Committee:

- (a) Notes the work of the Working Group and agrees to the Working Group continuing to meet to progress its current work.
- (b) Agrees the Policy on Reporting on Council Meetings set out at Appendix 1 to this report and recommends the same to Council for approval;
- (c) Subject to (b) above, recommends to Council that the Standards and Constitutional Oversight Committee have delegated authority to revise, amend and/or change the Policy on Reporting on Council Meetings;
- (d) Agrees the revised Protocol on Member/Officer Relations set out at Appendix 2 to this report and recommends the same to Council for approval; and
- (e) Subject to (d) above, recommends to Council that the Council's Constitution be updated with the Protocol on Member/Officer Relations set out at Appendix 2.

13.0 REASON/S FOR RECOMMENDATION/S

13.1 The recommendations are necessary to ensure compliance with legal obligations and improve governance arrangements.

REPORT AUTHOR: **Surjit Tour**
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and Monitoring Officer
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APPENDICES

Appendix 1 - Policy on Reporting on Council Meetings (which includes the DCLG Guide)

Appendix 2 - Protocol on Member/Officer Relations

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POLICY
on the Reporting of Council Meetings

1. Introduction

- 1.1 This Policy seeks to provide guidance and support to the public, Civic Mayor, councillors, officers and journalists with regards to the reporting of Council meetings.
- 1.2 The Openness of Local Government Bodies Regulations 2014 (“the Regulations”) came into force in August 2014.
- 1.3 The Regulations form part of the Local Audit and Accountability Act 2014 (“the Act”) and their principal objective is to make local government decision making more accessible and transparent to the public. The Regulations thus seek to ensure that members of public are able to report on meetings of local government bodies.
- 1.4 The Regulations allow the public greater rights to report at open meetings of local government bodies by filming, photographing, audio recording or any other means, such as blogging, tweeting and the like.
- 1.5 The Department for Communities and Local Government (“DCLG”) has prepared a guide (see Appendix 1) to the Regulations which covers all aspects of access to information and meetings.
- 1.6 The guide makes it clear that Local Authorities are required to provide reasonable facilities to enable reporting. They are advised to use their common sense to determine the meaning and effect of the Regulations.

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1.7 This Policy shall be interpreted having regard to the DCLG guide (and/or any other prevailing guidance provided).

2. Council's Commitment

2.1 The Council is committed to openness and transparency in its decision making.

2.2 Anyone wishing to report/record Council meetings/proceedings is welcome to do so, unless otherwise excluded as permitted by law.

2.3 Any reporting/recording of Council meetings/proceedings must be in accordance with the law and this Policy.

3. Meaning of "reporting"

3.1 Reporting of Council meetings means:

- undertaking filming, photography or making an audio recording of the proceedings of the meeting;
- using any other means for enabling a person not present to see and/or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.
- BUT reporting does not include oral reporting or commentary at a meeting if the person reporting or providing the commentary is present at the meeting.

APPENDIX 1

- Any person who attends a meeting for the purpose of reporting on the meeting may use any communication method, including the internet, to publish, post or otherwise share the results of the person's reporting activities.

4. Obligations upon those reporting on Council meetings

4.1 Anyone reporting on a meeting of the Council must:

- do so with courtesy and respect for others in attendance;
- undertake all reporting overtly;
- not film, photograph or otherwise capture the image or face of a person who has raised concern over their rights being infringed by the reporting (or any associated activity). In such circumstances, those seeking to report the meeting should seek advice from the Chairperson (who shall be advised by the legal (or other relevant) officer in attendance);
- not film, photograph or otherwise capture the image, body or face of a minor (who shall for the purposes of this Policy be defined as anyone under the age of 18 years) unless express permission has been obtained from the parent(s) of that child(ren);
- not film or photograph a vulnerable person who has objected to being filmed or photographed.
- not edit or otherwise interfere with any filming, photography or recording of a meeting in such a way that could lead to misrepresentation,

APPENDIX 1

misinterpretation, unjust/unfair reputational harm to another or the infringement of the spirit of the Act, the Regulations and/or this Policy;

- subject to the above, focus any filming and photography (or any other such recording) on councillors, officers, invitees and members of the public who are directly involved in the conduct of the meeting.
- carry out reporting without causing any distraction, interference and/or other adverse or unreasonable impact on the meeting or to anyone else in attendance;
- not use flash photography or additional lighting (unless agreed in advance and there is no adverse impact upon the meeting in question); and
- keep any devices used for recording on their 'silent' setting throughout the meeting.

5. Council's Obligations

5.1 The Council:

- will ensure reasonable provision is made for anyone reporting on a meeting of the Council, such as provide adequate space and seating to view, hear and record the meeting;
- the Chairperson of a meeting has in his/her discretion the right to designate a specific area within the meeting room for purposes of filming and photography;

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- agrees that the Chairperson shall exercise discretion and judgement to balance the rights of those entitled to report on a meeting pursuant to the Act, the Regulations and DCLG Guide against any other applicable legal rights, duties, obligations and other considerations arising;
- where there is a dispute/tension with regards to the provisions and application of this Policy, the Act, the Regulations and/or the DCLG Guide, the Chairperson shall resolve the dispute/tension as the Chairperson sees fit; and for the purposes of the meeting in question, his/her decision shall be final.

March 2015

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Protocol on Member/Officer Relations

1. Role and Purpose

The purpose of this protocol is to guide Members and Officers in their relations with each other and outline some of the appropriate conventions within the Council. The document cannot cover every eventuality nor is it prescriptive. Its intention is to offer guidance on some of the issues which commonly arise.

2. Definition of the Role and Officers and Members

This protocol seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The aim of these codes is to enhance and maintain the integrity of local government and they therefore demand very high standards of personal conduct.

Both Members and Officers are servants of the public. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are employed by, and are responsible to, the Council. Their job is to give effective, impartial advice to Members and the Council and to carry out the Council's work under the direction and control of the Council, its Cabinet, Committees and Sub-Committees.

For the effective conduct of Council business, there should be mutual respect and courtesy in all meetings and contacts (both formal and informal) between Members and Officers. It is important that behaviour which could be viewed as conferring an advantage or disadvantage is avoided, as should close personal familiarity between Members and Officers, which could undermine public confidence in the Council. It is acknowledged that some close relationships may inevitably develop, and if so these must be openly declared and, where possible, Members and Officers who have close personal relationships should avoid working relations where they would come into regular contact on projects and in the day-to-day business of the Council

3. Officer Advice to Party Groups

Officers cannot be instructed to attend party political group meetings, or write reports for such meetings.

Any requests for advice or attendance shall be directed through the Group Leaders or Chairs/Spokespersons for the relevant Committee or Cabinet Member concerned.

The request shall be made to the relevant Chief Officer, or in his/her absence to their deputy or the next appropriate lower tier officer. An officer accepting an invitation to one political group or individual shall not decline an invitation to advise another political group or individual on the same subject, although the Officer is not obliged to offer to advise another political group on the same subject. Any request received and advice given shall be the subject of strict confidentiality, unless agreed otherwise.

4. Briefings for Cabinets and Committees

The principles outlined above do not obviate the necessity for regular contact on matters affecting the Council between Senior Officers and the Leadership of political groups, and on matters affecting Cabinet members' responsibilities or those of Committee Chairs and/or Political Group Spokespersons.

It is recognised that groups may wish to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Political Groups may at their own discretion decide to engage jointly in such deliberations. Officers may properly be called upon to support and contribute to such deliberations, provided they maintain a stance of political neutrality. Support includes briefings for Cabinet and committees, and briefings for Members related to their individual role, e.g. Cabinet member or scrutiny chair. Officers should be asked to give advice on Council business only, and not on matters which are of a party political nature. Such support and advice is available to all political groups.

Usually, only Chief Officers may be asked to provide the support outlined above in 3 and 4. Requests for attendance should be made in sufficient time to allow proper preparation. Due consideration shall be given to the timing of meetings to avoid onerous demands being made. The time spent advising a political group or individual shall be reasonable, given the demands on the time of all concerned.

5. Support Services for Members

The role of Officers is only to assist Members in discharging their role as Members of the Council for Council business and in their role as advocates for local communities. Officers should not be used in connection with party political campaigning or for private purposes. Council resources (e.g. member services, stationery, photocopying) may only be used for Council business or where such use is conducive or incidental to that role.

6. Members' Access to Information and Council Documents

All Political Groups shall be equally entitled, if they so choose to request and receive background information to decisions, including essential financial information. All such requests and the replies, shall remain confidential to that political group, although political groups may at their discretion choose to share that information between political groups. Members are reminded of the need to consider whether such information is likely to fall within the categories of exempt information as defined in the Access to Information Procedure Rules, and to treat it accordingly. Release of information to Members will be subject to ensuring compliance with the Data Protection Act.

The common law right of Members is based on the principle that any Member has "prima facie" (or "on the face of it") right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable him/her to

properly perform their duties as a Member of the Council. This is referred to as the “need to know” principle.

The exercise of this common law right depends upon the Member’s ability to demonstrate that he/she has the necessary “need to know”. A Member has no right to a “roving commission” to go and examine documents of the Council, and what the law terms “mere curiosity” is not sufficient. The question must initially be determined by the particular Chief Officer whose department holds the documents in question, with advice from Head of Legal and Member Services.

In some circumstances (e.g. a Committee Member wishing to inspect documents relating to the functions of that Committee), a Member’s need to know will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties), a Member will normally be expected to justify the request in specific terms, possibly in writing.

Draft Cabinet reports and working papers will be considered as work in progress and as such may not be requested under the Access to Information Procedure Rules.

7. Reports

Chief Officers may initiate reports on any matter where they believe the Council, Cabinet, committee or sub-committee should make a decision or should be informed. Where such a report affects another service, the appropriate Chief Officer must be consulted. The appropriate Cabinet member shall be consulted prior to the publication of an Executive report which concerns their portfolio. Reports shall communicate all relevant factual information and professional opinions, together with appropriate recommendations. The Cabinet Member may make suggestions as to the content and timing of the report, however the final word on these matters will be that of the Chief Officer *in whose name the report is presented*, even if the Cabinet Member is unhappy with the outcome.

The Cabinet Member may submit their own report for consideration alongside that of the Chief Officer.

8. Policy and Performance Committee

Policy and Performance Committees may require Officers and Members to attend and provide any information required to answer questions (other than those which he or she would be entitled to refuse to answer in a court of law). Detailed provisions are contained within the overview and Scrutiny Procedure Rules.

9. Ward Councillors

Ward Councillors (and, where appropriate, councillors for neighbouring wards where there is a clear and obvious connection) should be kept informed and consulted on relevant matters affecting their Ward, e.g. planning, highways, licensing and other relevant matters. In the case of public meetings in a particular locality, Ward Councillors will normally be invited to attend and can expect to be consulted on any form of consultation exercise on local issues.

So far as decision making is concerned, Members remain accountable to the whole electorate of the Borough, and must make a personal decision on matters which come before them, balancing the interests of the electorate as a whole, including those members of the public who did not vote for them.

10. Correspondence

Where an Officer copies correspondence addressed from one Member to another, it should be made clear to the originator and should not be sent to any Member of another political group without the originator's consent. Members' correspondence with Chief Officers should not be copied to Cabinet Members or Policy and Performance Committee Chairs unless the originating Member consents.

Official letters from the Council should normally be sent out in the name of the appropriate Officer, rather than a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) to address correspondence in the name of the Member, but this is the exception rather than the rule. Letters which create obligations or give instructions should not be sent out in the name of a Member.

Any Members who receive correspondence in their capacity as Executive members shall respond to the correspondence in their official capacity only. Such correspondence shall be copied to the Leader of the Council as Chair of Cabinet, except when doing so would constitute a breach of professional confidence.

11. Press Releases

Members are reminded of the need to comply with the requirements of the Local Government Act 1986 and the Code of Recommended Practice on Local Authority Publicity which prohibits local councils from publishing any material which appears to be designed to reflect support for a political party. Council publicity should not be used as a means to publicise individual Councillors, except where they are acting to represent the Council as a whole.

12. Ceremonial Events

Ceremonial events would normally be attended by the Civic Mayor or Deputy Civic Mayor, unless they relate specifically to initiatives led by the Cabinet or in particular committee, in which case the Cabinet Member, Chair or Vice-Chair of that Committee would attend.

In addition, local Members should be informed and, where possible and appropriate, invited to participate.

13. Complaints

Where a Member's conduct is considered inappropriate, the complainant should raise his/her complaint under the Council's Members Code of Conduct and Protocol

APPENDIX 2

for Dealing with Complaints Against Members. The Protocol sets out how a complaint against a Member should be made and how it will be dealt with.

Further advice on making a complaint can be sought from the Council's Monitoring Officer.

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Department for
Communities and
Local Government

Open and accountable local government

A guide for the press and public on attending and reporting meetings of local government

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About this Guide

The national rulesⁱ have been changed to make councils, including parish and town councilsⁱⁱ, and other local government bodies such as fire and rescue authorities, more transparent and accountable to their local communities. A full list of bodies to which the rules apply is at **annex A**.

This plain English Guideⁱⁱⁱ gives practical information about what these new rules mean for members of the public attending meetings of local government bodies, including meetings of a body's committees, sub-committees and any joint committees involving two or more bodies. The Guide also covers meetings of any council's executive (i.e. the council's cabinet^{iv}), including any committees and sub-committees of the executive.

In particular, this Guide gives practical information about how members of the public can use modern technology and communication tools to report on meetings they are attending, and about how to access information on decisions taken by a body's officers or individual members. This Guide will also help the public to know when they can attend meetings of local government bodies, and what documents and information are available to them. It should also help councillors and officers to comply with the new rules.

As the Guide explains, different rules apply to different meetings, particularly meetings of a parish council or parish meeting, and the meetings of a council's executive, its committees or sub-committees.

- **Part 1** focuses on the use of various communication tools for reporting the proceedings of any meeting of a local government body which is open to the public.
- **Part 2** explains how the public can access meetings of a council's executive, its committees and sub-committees, and records of executive decisions taken by individual members or officers.
- **Part 3** explains how the public can access all other meetings of a local government body, other than parish and town councils, and records of certain other decisions taken by officers.
- **Part 4** explains how the public can access meetings of parish and town councils, parish meetings and the Council of the Isles of Scilly, and records of certain decisions taken by those councils' officers.
- **Part 5** focuses on other rights that the public have to access information.

This Guide now replaces the Guide titled "Your council – going to its meetings, seeing how it works" that the department issued in June 2013.

All footnotes are listed at the end of the Guide.

Part 1 Your rights to attend and report meetings

This part of the Guide applies to all the local government bodies listed at annex A.

Why are there new national rules?

We now live in a modern, digital world where the use of modern communication methods such as filming, tweeting and blogging should be embraced for enhancing the openness and transparency of local government bodies. This will ensure we have strong, 21st century, local democracy where local government bodies are genuinely accountable to the local people whom they serve and to the local taxpayers who help fund them.

Who do these rules help?

These rules help any members of the press and public who want to know about, view or report the work of local government bodies. The “press” is defined in the widest terms – including traditional print media, filming crews, hyper-local journalists and bloggers.

The new national rules^v have increased your rights to film, audio-record, take photographs, and use social media such as tweeting and blogging to report the proceedings of all such meetings that are open to the public.

Are all meetings of a local government body open to the public?

All meetings must be open to the public except in limited defined circumstances where the national rules require or allow the meeting to be closed to the public – see Part 2 for the rules for a council’s executive, Part 3 for the rules for other local government bodies, other than parish and town councils, and Part 4 for the rules for parish and town councils.

Can I film or audio-record the meeting?

Yes, councils and other local government bodies are required to allow any member of the public to take photographs, film and audio-record the proceedings, and report on all public meetings. While no prior permission is required to carry out this activity, it is advisable that any person wishing to film or audio-record a public meeting let their local government staff know so that all necessary arrangements can be made for the public meeting. This is important because the rules require local government bodies only to provide reasonable facilities for any member of the public to report on meetings.

There is no legal requirement for councils to webcast their meetings, but where councils and other local government bodies webcast any of their public meetings, they should, as a matter of good practice, notify the public.

Do I need to have advance permission to report the meeting?

No. Whilst we would encourage people to contact staff in advance if they want to film or record, equally, we would discourage any system which “vetted” journalists or restricted reporting to “approved” journalists. Councils should support freedom of the press within the law and not seek to restrict those who may write critical comments.

Can I film or audio-record a private meeting^{vi}?

The rules on the use of communication methods, such as filming and audio-recording, only require local government bodies to allow the reporting of meetings open to the public. The relevant council or local government body may not allow you to film or audio-record its private meetings. You may also not be allowed to leave recording equipment in the room where a private meeting is held for the purpose of reporting on the meeting.

Can I tweet or blog a council or local government body meeting?

Yes, the new rules^{vii} allow for reporting of meetings via social media of any kind. Therefore bloggers, tweeters, and for example, Facebook, YouTube users and individuals with their own website, should be able to report meetings. You should ask your council for details of the facilities they are providing for reporting.

If I am a councillor, can I tweet or blog during council meetings?

The national rules do not prevent councillors from tweeting and blogging at meetings, so they should be able to do so provided it is not disruptive and does not detract from the proper conduct of the meeting. Whilst councillors are expected to comply with their body’s code of conduct, this should not prevent councillors from tweeting or blogging when appropriate.

What sort of facilities will my council or local government body provide?

Councils or local government bodies are required to provide “reasonable facilities” to facilitate reporting. This should include space to view and hear the meeting, seats, and ideally a desk. Councils and local government bodies should use their common sense to determine the range of reasonable facilities they can actively provide to support the free press in all its forms.

To facilitate public scrutiny and public reporting, local authorities should not conduct their meetings in foreign languages.

Will I be allowed to film, tweet, blog or audio-record the meetings of other bodies not listed in annex A?

The Government message is that all public bodies should adopt maximum openness and transparency. This is also essential for bodies or groups making decisions for their local area because they are expected to be open and transparent in their decision-making. While the new national rules do not apply to some local groups such as neighbourhood forums and Local Enterprise Partnerships, such groups are encouraged, when having public meetings, to embrace the use of modern technology and should allow the same filming, audio-recording, taking of photographs, tweeting and blogging as applied to local government bodies, particularly if they are in receipt of public funds. This will give local people the opportunity to see how decisions are being made that affect their community.

Are there any limits to what I can say in a tweet or video I publish?

The law of the land applies – including the law of defamation and the law on public order offences (see the Crown Prosecution Service guidance on social media^{viii}).

Freedom of speech within the law should also be exercised with personal and social responsibility – showing respect and tolerance towards the views of others.

Are there other limits that I should be aware of?

The council or local government body should consider adopting a policy on the filming of members of the public, and ensure that they protect children, the vulnerable and other members of the public who actively object to being filmed, without undermining the broader transparency of the meeting.

Will I be able to provide commentary during the meeting?

Any person can provide written commentary during a meeting, as well as oral commentary outside or after the meeting. The new rules do not permit oral commentary to be provided during a meeting as this would be disruptive to the good order of the meeting.

Can I be asked to leave a meeting because I'm taking photographs, filming or audio-recording the meeting or using social media?

Generally, people attending public meetings must be readily able to film, audio-record, take photographs or use social media. Councils and other local government bodies must take steps to ensure this is the case. However, those undertaking these activities must not act in a disruptive manner, which could result in being excluded from the meeting.

What is disruptive behaviour?

Essentially, this could be any action or activity which disrupts the conduct of meetings or impedes other members of the public being able to see, hear or film etc the proceedings. Examples can include:

- moving to areas outside the areas designated for the public^{ix} without the consent of the Chairman,
- excessive noise in recording or setting up or re-siting equipment during the debate/discussion,
- intrusive lighting and use of flash photography; and
- asking for people to repeat statements for the purposes of recording.

You may be excluded from a meeting if you act in a disruptive manner.

Can I leave recording equipment in a public meeting room and record without being present?

There is no legal prohibition, however, under the national rules, the local government body may require any such recording to stop if at any stage the meeting becomes a private meeting.

But the local authority says reporting is a breach of its Standing Orders?

It is a legal duty for the local government body to follow the new provisions. If a local government body's existing Standing Orders are not fully in line with the new legislation, in the short-term, we recommend they simply waive the relevant provisions of those old Standing Orders which could be taken to inhibit the new reporting rules, and then take steps to update formally its Standing Orders.

Part 2 Access to meetings and documents of a council's executive

This Part explains how the public can access meetings of a council's executive, its committees and sub-committees, and records of executive decisions taken by individual members or officers. A council's executive (i.e. the council's cabinet) is its main decision making body consisting of an elected mayor or leader and a number of councillors. This Part applies to councils with either a leader and cabinet or elected mayor and cabinet. It does not apply to councils operating the committee system or other local government bodies listed in Annex A.

What are the national rules for access to meetings and documents of a council's executive?

The national rules are principally provided by the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which introduced significantly greater transparency and openness into the meetings of a council's executive, its committees and sub-committees. The rules also strengthen the rights of councillors to access information about items to be discussed at a public or private meeting of their council's executive.

Who can make an executive decision in my council?

The decision maker can be the executive, its committees and sub-committees, joint committees, joint sub-committees, individual councillors, and officers who have delegated responsibility from the executive to make executive decisions. Your council may have local rules^x that will explain who may make a decision.

Attending the meetings of your council's executive

How will I know about a forthcoming public meeting of my council's executive?

Your council must give a notice of the meeting at least 5 clear days before it takes place. The details of the meeting must be published at your council's offices and on its website where practicable. The agenda must be published with any background papers. No item can be considered if the item is not available for inspection by the public with 5 clear days' notice.

Where an item is added to the agenda within 5 days before the meeting is scheduled to take place, a revised agenda, public report and background papers must be published as soon as the item is added to the agenda. In some circumstances, the whole or part of a

report may not be available for public inspection because it contains either confidential or exempt information. In this case, the report should bear the phrase 'not for publication' and state that it contains confidential information or set out the description of the exempt information.

Can I obtain a copy of the agenda and other relevant papers for a public meeting of my council's executive?

Yes, your council must provide you with a copy of the agenda, and other relevant papers once you have made payment of postage and/or copying charge. There are also additional legal rights to access information, outlined in Part 5 of this Guide.

Can a council's executive choose to meet in private?

All meetings of an executive including meetings of its committees or sub-committees must be open to the public, except in limited defined circumstances where the national rules require or allow the meeting to be closed to the public.

The rules require a meeting of an executive to be closed to the public in two specific circumstances:

- If the presence of the public is likely to result in the council breaching a legal obligation to third parties about the keeping of confidential information; or
- a lawful power is used to exclude the public in order to maintain orderly conduct or prevent misbehaviour at a meeting.

In addition, a meeting can also be closed to the public where the executive so decides (by passing a resolution of its members) because exempt information would otherwise be likely to be disclosed. It is open to the executive if it chooses to consider in public matters involving exempt information. There is no over-riding legal requirement forcing councils to discuss exempt information in private.

What is confidential information?

Confidential information means:

- information provided to the council by a Government department on terms which forbid the disclosure of the information to the public; and
- information which is prohibited from being disclosed by any enactment or by a court order.

What is exempt information?

The descriptions of exempt information are set out in Schedule 12A to the Local Government Act 1972. The descriptions are listed at **Annex B** of this Guide.

Can I be asked to leave a public meeting?

Yes. As a member of the public you can be asked to leave a meeting so that the executive, its committees or sub-committees can discuss matters in private, but only in the limited circumstances that are already explained.

How will I know about a private meeting of my council's executive?

Prior to holding a private meeting, your council must have published on its website and at its offices at least 28 clear days' notice of its intention to consider a matter in private and the reasons for the private meeting. This is to ensure that members of the public have reasonable opportunity to make representations as to why the proposed private meeting should not be held in private.

At least 5 clear days before the meeting, your council must confirm its intention to go ahead with the private meeting through another notice on its website and at its offices. This second notice has to include details of any representations received and the council's response to them.

Can a private meeting of my council's executive be held if 28 days' notice is not given to the public?

A private meeting can only be held without 28 days' notice after the agreement of the Chairman of the Overview and Scrutiny Committee has been obtained that the meeting is urgent and cannot reasonably be delayed. In the absence of the Overview and Scrutiny Committee Chairman, the permission of the Council Chairman (or, in their absence, the Vice Chairman) must be obtained. If this agreement is granted the council must publish a notice about why the meeting is urgent and cannot be deferred. This notice must be available at its offices and on their website. If agreement is not given then the meeting must either be held in public, or the council must comply with the 28 day notice requirements.

Can I attend an executive's pre-briefing meeting with local authority officers?

No. The rules apply only to when councillors meet as a decision making body to exercise their statutory executive responsibilities. The rules do not apply to political groups' meetings or to informal briefing meetings for councillors.

Recording of decisions of public meetings

If I am not at the meeting, how will I know of any decisions made?

The fact that you are unable to attend a public meeting of your council's executive, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require a council to keep records of any executive decisions^{xi} made as soon as reasonably practicable after any public meeting. The written records must reflect the following information:

- Details of the decision and the date it was made;
- reasons for the decision;
- any other options considered and why those options were rejected;
- details of any conflict of interest of an executive member of the decision-making body; and
- a note of dispensation granted by the Head of Paid Service in respect of any declared conflict of interest.

You can then inspect the records and any reports considered at the meeting at your council's offices and on the council's website if it has one. All of these documents can be inspected for six years beginning from the date of the meeting apart from background papers which can be inspected for four years beginning from the date of the meeting. These records may be kept in electronic format.

Apart from information about meetings, are there other means of knowing about decisions likely to be made by a council's executive, its committees and sub-committees?

Yes. The national rules require a council to publish its intention to make a key decision^{xii} in a document at least 28 clear days prior to when the decision is intended to be made. The notice has to include details of the individual or executive body that will make the decision, the matter that is subject to a decision, other documents to be considered, and where these other documents are available. This notice document must be available at the council's offices and on its website before the decision is made.

This allows you to have sufficient knowledge in advance of those decisions that will be of genuine concern to you and your local communities.

Can a key decision of a council's executive^{xiii} be made without giving the 28 days' notice?

Yes, provided the following requirements are met:-

- the relevant Overview and Scrutiny Committee Chairman is informed in advance and in writing (or all the members of the Overview and Scrutiny Committee) about what the decision is concerning;
- a notice about the key decision to be made is made available for inspection at the council's offices and published on the website; and
- 5 clear days elapse following the day a notice is published about the key decision to be made.

If there is a case of special urgency, for example an urgent decision on a negotiation, expenditure or contract, the decision must only be made if the agreement of the Overview and Scrutiny Committee Chairman is received. In the absence of the Overview and Scrutiny Committee Chairman, the permission of the Council Chairman (or in their absence the Vice Chairman) must be obtained. If agreement is given, a notice explaining why the decision is urgent and cannot reasonably be deferred, must be published and should be available at the council's offices and on its website as soon as reasonably practicable.

Can 28 days' notice of a key decision also provide 28 days' notice required for a council executive's private meeting?

It is up to your council to decide whether the 28 day key decision document should contain the details required for a private meeting notice. Where there is an intention to make a key decision at a private meeting, your council must comply fully with all the national rules.

Can my council's executive make key decisions and not follow the national rules?

No. Councils must comply with all the national rules since they are prescribed by law. Should a decision be made without applying the key decision rules because the council thinks that the decision is not a key decision, but subsequently the Overview and Scrutiny Committee decides the decision is a key decision, the executive may be asked to submit a report to the full council.

Executive decisions by an individual member or officer

Can an individual member or an officer of a council's executive take decisions on matters that are the executive's responsibility?

Yes, where the rules of your council allow this. Decision makers can be individual councillors, and officers who have delegated responsibility from the executive to make executive decisions.

How will I know about an executive decision taken by a member or officer?

When a member or officer takes a decision on matters that are the responsibility of the council's executive, this must be recorded in writing. The form of the written record is for the council to decide, but the following should be included:

- details of the decision and the date it was made;
- reasons for the decision;
- any other options considered and why those options were rejected;
- details of any conflict of interest declared by any executive member consulted in relation to the decision; and
- a note of dispensation granted in respect of any declared conflict of interest.

Are all decisions made by councils' officers to be so recorded?

No. The requirement to record decisions extends only to "executive decisions". Executive decisions can sometimes be defined in your council's rules. Decisions which are taken by officers under specific delegations from a meeting of their council's executive are clearly executive decisions. However, many administrative and operational decisions officers take on how they go about their day to day work will be delegated within the council's rules and are not in this "executive decisions" category; as such they do not need to be recorded.

The decisions that should be not recorded might include the following examples:

- Decisions to allocate social carers to particular individuals, or for example, to provide walking aids;
- decisions to allocate a social housing unit to an applicant or to send someone to carry out repairs;
- decisions to review the benefit claims of an individual applicant and
- decisions to allocate market stalls to individual traders.

Where officers have been empowered to act on behalf of their council's executive, examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual or total values;
- decisions to exercise powers of Compulsory Purchase;
- decisions on disposal of and/ or provision of allotment land and green spaces;
- awarding of Discretionary Rate Relief
- the opening hours of local libraries; and
- the holding of car boot sales/markets on council-owned land.

This is not intended to be an exhaustive list, rather a series of examples to illustrate that, in the interests of maximum transparency, these Regulations require more than just key decisions to be recorded.

Ultimately it is for local decision makers to decide what information should be recorded on the basis of the national rules.

How can I see any records of decisions taken by executive members or officers?

Once a record of executive decisions taken by an executive member or officer has been made, you should be able to inspect the record at the council's offices and on its website as soon as reasonably practicable.

However you will not be able to see some of the information if it is considered to be either confidential or exempt information.

Can I ask for a copy of any records of executive decisions?

Yes. You can ask for a copy of any documents relating to executive decisions and your council should supply the information once you have paid for the postage, copying or any other necessary charge for transmission which will be determined by your council. There are also additional legal rights to access information, outlined in Part 5 of this Guide.

Your rights as a councillor

If I am a councillor, do I have any right to access meeting documents?

As a councillor, you can inspect any document that contains material to be discussed at least 5 days before a public meeting is held. In case of a private meeting or decision made by an individual executive member or officer, you can inspect the document within 24 hours of the conclusion of the meeting or the decision being made.

In addition, if you are a member of an overview and scrutiny committee, you can ask for any document that contains business transacted at a meeting of the executive, its committees or sub-committees or officer of the authority. The executive must provide the

document within 10 days after it (the executive) receives the request. In an instance where the executive cannot release the whole or part of the document, the executive must provide you with a written explanation.

What other rights do councillors have to inspect documents of their councils?

In addition to the rights conferred on councillors by these Regulations in relation to executive decision making, councillors also have statutory rights to inspect documents of the council and its committees under Part 5A of the Local Government Act 1972. Councillors may also request information held by their council under the Freedom of Information Act 2000 (or the Environmental Information Regulations 2004 in relation to environmental information). Councillors may have rights under the common law to inspect such documents held by their council as are reasonably necessary for them to perform their duties.

What happens if documents relating to executive decisions are not made public?

It is a criminal offence if, without a reasonable excuse, a person who has in his or her custody a document^{xiv}, which the national rules require to be made available to the public, refuses to supply the whole or part of the document or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she can be fined up to £200^{xv}.

Part 3 Access to non-executive meetings and documents of a local government body, other than parish and town councils

This Part explains how the public can access all meetings (other than those of a council's executive) of a council or other local government body, other than parish and town councils. These meetings include those of a body's committees, sub-committees and any joint committees involving two or more local government bodies. It also explains how to access the records of certain non-executive decisions taken by the officers of local government bodies, other than parish and town councils.

Attending the meetings

How will I know about a forthcoming meeting of my council or local government body which will be open to the public?

Your council or local government body must give a notice of the meeting at least 5 clear days before a public meeting is held. The details of the meeting, such as the time and place, must be published at your council or local government body's offices. The notice may also be published on the body's website where practicable. You can also inspect the agenda and any background papers at least 5 clear days before the meeting.

Where an item is added to the agenda within 5 days before the meeting is scheduled to take place, a revised agenda and background papers must be published as soon as the item is added to the agenda.

An item that is not on the agenda can only be considered in special circumstances if the chairman is of the opinion that the item should be considered at the meeting as a matter of urgency. Any such special circumstances should be specified in the minutes.

How can I obtain a copy of the agenda and other relevant papers for a public meeting?

If you are representing a newspaper, your council or local government body must provide you with a copy of the agenda and any background upon payment of postage and/or copying charge. Councils and local government bodies are encouraged to provide a similar service to other members of the public upon request and payment of postage and/or copying charge.

In some circumstances, the whole or part of a report may not be available for public inspection if it contains either confidential or exempt information. In this case, the report should bear the phrase 'not for publication' and state that it contains confidential information or set out the description of the exempt information.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

Can a meeting be held in private?

The rules require a meeting of a council or local government body to be closed to the public in two circumstances:

- If the presence of the public is likely to result in the council or local government body breaching a legal obligation to third parties about the keeping of confidential information; and
- if the council or local government body decides (by passing a resolution of its members) because exempt information would otherwise be likely to be disclosed. It is open to the council or local government body if it chooses to consider in public matters involving exempt information. There is no over-riding legal requirement compelling the body to discuss exempt information in a private meeting.

The rules do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine misbehaviour at a meeting.

What is confidential information?

Confidential information means:

- information provided to the council or local government body by a Government department on terms which forbid the disclosure of the information to the public; and
- information which is prohibited from being disclosed by any enactment or by a court order.

What is exempt information?

The descriptions of exempt information are set out in Schedule 12A to the Local Government Act 1972. The descriptions are listed at **Annex B** of this Guide.

Can I be asked to leave a public meeting?

Yes. As a member of the public you can be asked to leave a meeting so that the council or local government body, its committees or sub-committees can discuss matters in private, but only in the limited circumstances that are already explained. The rules do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine disruption at a meeting.

How will I know about a private meeting of my council or local government body?

The rules do not require your council or local government body to notify the public if a meeting will be held in private. However, where part of a public meeting will be held in private, it should be explained when the public is notified of the meeting.

Can I attend a pre-briefing meeting with local authority officers?

No. The rules do not apply to political groups' meetings or to informal briefing meetings for councillors.

Recording of decisions of public meetings

If I am not at the meeting, how will I know of any decisions made?

The fact that you are unable to attend a public meeting of your council or local government body, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require the council or local government body to make the following documents available for inspection after a public meeting:

- a copy of the minutes;
- a summary of the proceedings, where applicable;
- a copy of the agenda;
- a copy of any report for the meeting as relates to any item during which the meeting was open to the public; and
- a copy of a list of the background papers for any report for the meeting.

You can then inspect the records and any reports considered at the meeting at your council or local government body's offices and on the council or local government body's website if it has one. All of these documents can be inspected for six years, apart from background papers which can be inspected for four years beginning from the date of the meeting.

Decisions by officers

Can an officer take decisions on matters that are the council or local government body's responsibility?

Yes, where the council or local government body's rules^{xvi} allow this.

How will I know about decisions made by officers?

The new national rules require the recording of certain decisions^{xvii} taken by officers acting under powers delegated to them by a council or local government body, its committees or sub-committees or a joint committee. The written record must be available for inspection at the council or local government body's offices and on the website if it has one^{xviii}, as soon as reasonably practicable, and should include:

- The decision taken and the date the decision was taken;
- the reason/s for the decision;
- any alternative options considered and rejected; and
- any other background documents.

Where a decision is taken under a specific express authorisation, the names of any member of the council or local government body who has declared a conflict of interest must be recorded.

The relevant council or local government body must retain and make the written record of their officers' decisions available for inspection for six years beginning from the date of the meeting. The background papers should also be available for inspection for four years beginning from the date of the meeting. These may be kept in electronic format.

Can I see all decisions made by my council or local government body's officers?

No. The requirement to record applies to all decisions taken by officers whilst acting under a specific express authorisation and to only three categories of decision taken whilst acting under a general authorisation. These categories cover decisions to "grant a permission or licence"; that "affect the rights of an individual" (i.e. to change an individual's legal rights)^{xix}; or to "award a contract or incur expenditure which, in either case, materially affects^{xx} that relevant local government body's financial position".

Officers take many administrative and operational decisions about how they go about their day to day work within the council's or local body's rules. These decisions will not need to be recorded.

You will not be able to inspect some recorded decisions if the whole or part of the records contains confidential or exempt information.

Examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual or total values (the values will vary according to the relevant council or local government body);
- a decision to carry out major road works;
- determination of licencing applications, building control decisions and notices; and
- decisions to give listed building consents.

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record published includes the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions such as giving permission to a local society to use the authority's premises;
- decisions on operational matters such as day to day variations in services;
- decisions to give business relief to individual traders;
- decisions to review the benefit claims of an individual applicant; and
- decisions taken in response to requests under the Data Protection Act 1998 or the Freedom of Information Act 2000.

These are a few selected examples and not an exhaustive list. It is for the council or local government body to decide what information should be recorded on the basis of the national rules.

Can I ask for a copy of any records of decisions taken by an officer of my council or local government body?

Yes. You can ask for a copy of any documents relating to decisions taken by an officer acting under specific or general delegated powers once you have paid for the postage, copying or any other necessary charge for transmission which will be determined by your council or local government body.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

What happens if documents relating to decisions are not made public?

It is a criminal offence if, without reasonable excuse, a person with custody of a document^{xxi} (which is required by the national rules to be made available to the public),

refuses to supply the whole or part of the document, or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she may be fined up to £200^{xxii}.

Part 4 Access to meetings and documents of parish and town councils

As a member of the public, you have the right to attend the annual parish and town meeting, as well as the meetings of parish and town councils^{xxiii}, and of the Council of the Isles of Scilly. This Part explains how the public can access meetings of these councils and records of certain decisions taken by those council's officers.

Attending meetings of parish councils and the Council of the Isles of Scilly

How will I know about a forthcoming meeting of a parish or town council or the Council of the Isles of Scilly which is open to the public?

Parish and town councils and the Council of the Isles of Scilly must give notice of their meeting at least 3 clear days before it takes place. Where a parish meeting^{xxiv} is called, at least 7 clear days' notice must be given.

Notice of the meeting specifying the business to be discussed must be placed in a central conspicuous place within the parish or area at least 3 clear days before the meeting. These councils are also encouraged to place copies of the agenda, meeting papers and notice of meetings at offices and on their website, if they have these facilities.

Can a parish or town council or the Council of the Isles of Scilly choose to meet in private?

All meetings of these councils must be open to the public, except in limited defined circumstances. These councils can only decide, by resolution, to meet in private when discussing confidential business or for other special reasons where publicity would be prejudicial to the public interest.

What is confidential information and publicity prejudicial to the public interest?

Though not an exhaustive list, we expect this to cover matters such as discussing the conduct of employees, negotiations of contracts or terms of tender, or the early stages of a legal dispute.

Can I be asked to leave a public meeting?

Yes. As a member so the public you can be asked to leave a meeting so that the council can discuss matters in private, but only in the limited circumstances described above. The rules also do not prevent the chairman from excluding any member of the public in order to maintain orderly conduct or prevent genuine disruption at a meeting.

Recording of decisions of public meetings

If I am not at the meeting, how will I know of any decisions made?

The fact that you are unable to attend a public meeting of your parish and town council, its committees or sub-committees does not mean you cannot find out about the decisions made there. The national rules require the parish and town councils to make a copy of the minutes available for inspection after a public meeting.

You can inspect the minutes at your council's offices and on the council website if it has one.

Decisions by officers

Can an officer take decisions on matters that are the parish or town council's responsibility?

Yes, where the parish or town council's rules allow this.

Are there means of knowing about decisions made by individuals?

Yes. The rules require the recording of certain decisions^{xxv} taken by officers acting under powers delegated to them by a parish or town council, its committees or sub-committees or a joint committee. The written record should include:

- The decision taken and the date the decision was taken;
- the reason/s for the decision;
- any alternative options considered and rejected; and
- any other background documents.

You can see these records of decisions made by officers along with any other background papers because they have to be available for inspection at the council's offices and on its website as soon as is reasonably practicable after the decisions are made^{xxvi}.

The relevant parish or town council must retain and make the written record of their officers' decisions available for inspection for six years beginning from the date of the meeting. The background papers should also be available for inspection for four years beginning from the date of the meeting. These may be kept in electronic format.

Can I see all decisions made by my parish or town council's officers?

No. The requirement to record applies to all decisions taken by officers whilst acting under a specific express authorisation, and only to three categories of decision taken whilst acting under a general authorisation. These categories cover decisions to “grant a permission or licence”; that “affect the rights of an individual”(i.e. to change an individual's legal rights)^{xxvii}; or to “award a contract or incur expenditure which, in either case, materially affects^{xxviii} that relevant local government body's financial position”.

Officers take many administrative and operational decisions on how they go about their day to day work within the council's rules. These decisions will not need to be recorded.

You will not be able to inspect some recorded decisions if the whole or part of the records contains confidential information or any other information, which its publicity would be prejudicial to the public interest.

Examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual/total values (the values will vary according to the relevant parish or town council); and
- decision to renew a lease to an Allotment Association.

Where decisions are already required to be published by other legislation, they do not need to be recorded again provided the record published has the date the decision was taken and the reasons for the decision.

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions such as the purchase of office supplies or repairs;
- a decision to sign an allotment tenancy agreement;
- decisions to allocate burial plots; and
- decisions to book rooms or sports grounds; and decisions to approve works undertaken by a contractor.

These are a few selected examples and not an exhaustive list. It is for the council to decide what information should be recorded on the basis of the national rules.

Can I ask for a copy of any records of decisions taken by an officer of my parish or town council?

Yes. You can ask for a copy of any documents relating to decisions taken by an officer acting under specific or general delegated powers once you have paid for the postage,

copying or any other necessary charge for transmission which will be determined by your parish or town council.

There are also additional legal rights to access information, outlined in Part 5 of this Guide.

What happens if documents relating to decisions are not made public?

It is a criminal offence if, without reasonable excuse, a person with custody of a document^{xxix} which is required by the national rules to be made available to the public, refuses to supply the whole or part of the document, or intentionally obstructs any other person/s from disclosing such a document.

If a person is found guilty of such a criminal offence, he/she may be fined up to £200^{xxx}.

Part 5 Your other rights of access to information

Are there other rights I can exercise?

The Local Government Transparency Code sets out the minimum datasets that your local authority should publish. These include spending transactions valued over £500, salaries of senior staff, organisational charts, contracts and the location of public land and assets. The Code applies to local authorities, including parish councils with annual income or expenditure (whichever is the higher) over £200,000^{xxxi}. Local authorities with annual income or expenditure of above £6.5m will soon be statutorily required to comply with Part 2 of the Code when the relevant regulations are in place. You can obtain further information on this from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308185/Local_Government_Transparency_Code_2014_Final.pdf

You can inspect a council's detailed financial accounts, ledgers and records under section 15 of the Audit Commission Act 1998. In addition, the Accounts and Audit (England) Regulations 2011^{xxxii} cover checking not just the accounts, but also "all books, deeds, contracts, bills, vouchers and receipts related to them". More information on this right is available at: <https://www.gov.uk/government/policies/making-local-councils-more-transparent-and-accountable-to-local-people/supporting-pages/peoples-rights-to-see-council-accounts>

Also, you have the right to request information held by your council by submitting a Freedom of Information Act request to your council (a similar regime exists in relation to environmental information under the Environmental Information Regulations 2004). Information on the Freedom of Information Act and data protection is available on the Information Commissioner's Office website at: <http://ico.org.uk/>

You have certain rights to re-use for your own purposes documents held by the council under the Re-use of Public Sector Information Regulations 2005. These Regulations provide that any request for re-use must be in writing, and where possible and appropriate the council must make the document concerned available for re-use by electronic means. More information is available at:

<http://www.legislation.gov.uk/ukxi/2005/1515/introduction/made>

Where can I find the legislation relating to access to local government bodies' and council's executive meetings and information?

The relevant legislation about access to local government body meetings and information is in Section 40 of the Local Audit and Accountability Act 2014. The relevant provisions are available at the following link:

<http://www.legislation.gov.uk/ukpga/2014/2/section/40>

The detailed provisions on how any person can report on the meetings of a local government body are in The Openness of Local Government Bodies Regulations 2014 which can be found at:

<http://www.legislation.gov.uk/id/uksi/2014/2095>

The legislation relating to access to information regarding decisions made by council executives, and their committees, sub-committees and joint committees is Part 1A of the Local Government Act 2000 – see sections 9G and 9GA. This part was inserted as a result of amendments made by the Localism Act 2011 and the relevant provisions are available at the following link:

<http://www.legislation.gov.uk/ukpga/2011/20/schedule/2/part/1>

The detailed provisions on the rights to attend meetings and obtain information of an executive are in the secondary legislation made under the 2000 Act, that is the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 which can be found at:

<http://www.legislation.gov.uk/uksi/2012/2089/contents/made>

The legislation relating to access to meetings and documents of a council and other local government bodies can be found in Part VA of the Local Government Act 1972, available at the following link:

<http://www.legislation.gov.uk/ukpga/1972/70/part/VA>

The legislation relating to access to meetings of a parish or town council can be found at section 1 the Public Bodies (Admission to Meetings) Act 1960, available at the following link:

<http://www.legislation.gov.uk/ukpga/Eliz2/8-9/67/section/1>

Annex A – Description of the local government bodies that are covered by the new rules

- (a) a district council,
- (b) a county council in England,
- (c) a London borough council,
- (d) the London Assembly (Greater London Authority),
- (e) the Common Council of the City of London in its capacity as a local authority or police authority,
- (f) the London Fire and Emergency Planning Authority,
- (g) Transport for London,
- (h) a joint authority established under Part 4 of the Local Government Act 1985,
- (i) an economic prosperity board,
- (j) a combined authority,
- (k) a fire and rescue authority in England constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
- (l) a National Park Authority for a National Park in England,
- (m) the Broads Authority,
- (n) the Council of the Isles of Scilly,
- (o) a parish council, and
- (p) a parish meeting.

The new national rules also apply to the committees, sub-committees and joint committees of these local government bodies.

Annex B – Descriptions of Exempt Information

The exempt information set out at Schedule 12A to the Local Government Act 1972 Act is as follows:

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes—
 - a. to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - b. to make an order or direction under any enactment.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

The qualifications to the list of exempt information are as follows:

A. Information falling within number 3 above is not exempt information by virtue of that paragraph if it is required to be registered under--

[the Companies Acts (as defined in section 2 of the Companies Act 2006)];
the Friendly Societies Act 1974;
the Friendly Societies Act 1992;
the *Industrial and Provident Societies Acts 1965* [Co-operative and Community Benefit Societies and Credit Unions Acts 1965] to 1978;
the Building Societies Act 1986; or
[(f) the Charities Act 2011.

B. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

C. Information which—

falls within any of numbers 1 to 7 above; and
is not prevented from being exempt by virtue of number A or B above,

is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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- ⁱ The new national rules are in The Openness of Local Government Bodies Regulations 2014 (S.I. 2014/...) and The Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 (S.I. 2012/2089).
- ⁱⁱ A parish or town council may also be called a city, community, neighbourhood or village council. Any reference to parish council in this Guide also refers to these bodies.
- ⁱⁱⁱ The Guide should not be taken as providing any definitive interpretation of the statutory requirements on councils, members, officers, or of public rights: those wishing to address such issues should seek their own legal advice.
- ^{iv} A council's cabinet is its main decision making body, consisting of an elected mayor or leader and a number of councillors.
- ^v Part 2 of the Openness of Local Government Bodies Regulations 2014 (S.I. 2014/...)
- ^{vi} "Private meeting" is a meeting or part of a meeting during which the public are excluded for limited and certain circumstances described in the Local Government Act 1972 and the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012
- ^{vii} Regulation 4 of The Openness of Local Government Bodies Regulations 2014
- ^{viii} http://www.cps.gov.uk/legal/a_to_c/communications_sent_via_social_media/
- ^{ix} Any area designated for the public should be appropriate for filming, audio-recording and photographing.
- ^x Each council has its own rules for doing business - its constitution and standing orders- which must be in line with any national rules.
- ^{xi} An "executive decision" means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the executive of a local authority.
- ^{xii} "key decision" means an executive decision which, is likely—
to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or
to be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.
- ^{xiii} All references to 'a council executive' should be construed to include the executive's committees and sub-committees, joint committees, and joint sub-committees.
- ^{xiv} A document can be the written record of executive decisions made by an executive member or officer or any other background papers.
- ^{xv} This fine could change to reflect any future changes in legislation and/or national policy.
- ^{xvi} Each council or local government has its own rules for doing business - its constitution and standing orders- which must be in line with any national rules.
- ^{xvii} Regulation 7(2) of the 2014 regulations.
- ^{xviii} If a local government body does not have offices or a website, other appropriate means should be used to allow you to access these documents, such as publishing the information on a website of another local authority body in the area.
- ^{xix} These decisions do not include decisions taken pursuant to an existing framework of rights.
- ^{xx} As the financial position of bodies affected by these rules varies, what constitutes the material threshold is a judgement that should be made by individual bodies.
- ^{xxi} A document can be the written record of decisions made by an officer, or any background papers.
- ^{xxii} This fine could change to reflect any future changes in legislation and/or national policy.
- ^{xxiii} A parish or town council may also be called a city, community, neighbourhood or village council. Any reference to parish council in this Guide also refers to these bodies.
- ^{xxiv} A parish meeting is a meeting for all of the local government electors of the parish. This can be in the case of an annual meeting in an area where there is a separate parish council, or any meeting of local government electors where there is no separate parish council.
- ^{xxv} Regulation 7(2) of the 2014 regulations.
- ^{xxvi} If a parish or town council does not have offices or a website, other appropriate means should be used to make the papers accessible to the public, such as publishing the information on the website of the local principal authority.
- ^{xxvii} These decisions do not include decisions taken pursuant to an existing framework of rights.
- ^{xxviii} As the financial position of bodies affected by these rules varies, what constitutes the 'material threshold' is a judgement that would be made by individual bodies.
- ^{xxix} A document can be the written record of decisions made by an officer, or any background papers.
- ^{xxx} This fine could change to reflect any future changes in legislation and/or national policy.

^{xxxi} The government has recently consulted on a new transparency code for certain authorities with a turnover not exceeding £25,000 pa, which will act as a substitute for routine external audit. The draft code is available at: <https://www.gov.uk/government/consultations/draft-transparency-code-for-parish-councils>

^{xxxii} Under the new Audit framework, this right is restated in Section 26 of the Local Audit and Accountability Act 2014. The Government will be consulting shortly on draft regulations in relation to the new arrangements. Some changes are proposed to the framework for exercising public rights, but broadly the aim is to simplify and clarify arrangements. The intention is for the regulations to be in place for the accounting period 2015-16.

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STANDARDS AND CONSTITUTIONAL OVERSIGHT COMMITTEE – 9 FEBRUARY 2015

NOTICE OF MOTION - CONSULTATION THAT COUNTS

Proposed by Councillor Phil Gilchrist
Seconded by Councillor Dave Mitchell

Council recognises that the recent consultation about the options for the future of the Lyndale School led to issues being raised about the nature and practice of 'consultation'.

During this process, there was a distinction drawn between the notes taken at meetings and 'high level' notes. Whilst the inclusion of these points was contained in the subsequent reports, there is a pressing need to capture the full import and quality of points raised by the public during consultations.

Council also understands that the nature of and status of 'pre-consultation' was also questioned at a recent meeting of the Policy and Performance Co-ordinating Committee.

Council believes that, in the interests of good governance, there is a need for clarity to ensure that full records of consultations are effectively kept.

Council considers that guidance needs to be developed on the proper capture and reporting of points raised during consultations. The issue of the chairing of such consultations also needs to be considered.

Council requests that the Standards and Constitutional Oversight Committee examine the practices with a view to establishing procedures which Wirral's citizens and Councillors can be fully conversant with and have confidence in.

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